

## EXECUTIVE DECISION

From: **Sue Chandler, Cabinet Member for Integrated Children's Services**

**Matt Dunkley CBE, Corporate Director of Children, Young People and Education**

To: **Children, Young People and Education Cabinet Committee – 16 November 2021**

Decision: **21/00094 - Regional Residential Procurement Project: "DfE Phase 2"**

Key decision **Overall service value exceeds £1m and affects more than two Electoral Divisions.**

**Classification:** Unrestricted

**Past Pathway of report:** N/A

**Future Pathway of report:** Cabinet Member Decision

**Electoral Division:** All

### Summary:

This report provides the Children, Young People and Education Cabinet Committee with an overview of the engagement in a project led by the South East Sector Led Improvement Programme, funded by the Department for Education, for innovation in service provision for Complex Looked After Children.

### Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Integrated Children's Services on the proposed decision to:

A) Continue engagement in the Project

B) Participate in the Regional procurement for new innovative services for Complex Looked After Children

C) Delegate decisions and necessary actions regarding the award of the contract and implementation of the Decision to the Corporate Director for Children, Young People and Education, or other Officer as instructed by the Corporate Director for Children, Young People and Education, in consultation with the Cabinet Member for Integrated Children's Services.

## **1. Introduction**

- 1.1 This report provides an overview of the Project led by the South East Led Sector Improvement Programme (SESLIP) which Officers in Kent County Council have been involved in, the progress to date and the proposed next steps.
- 1.2 Initially, the project was looking at benchmarking high-cost placements for Complex Looked After Children and the outcome was shared amongst participating Local Authorities (initially 19 across the South East Region). The work showed significant variances in costs, as expected, and a bid was made to the Department for Education to progress a Regional Project to commission different models of care that address the common issues experienced broadly for the 11 to 16 year-old adolescent cohort.
- 1.3 Local authorities, as part of their Sufficiency Duty must take steps to secure, as far as reasonably practicable, sufficient accommodation within its areas to meet the needs of children they are looking after. The proposed decision directly relates to this duty by aiming to provide additional placements with new emerging models of care.
- 1.4 The South East Sector Led Improvement Programme (SESLIP) is a membership group of all single/upper-tier local authorities in the South East that aims to:
  - improve outcomes for children and young people across the South East
  - establish a culture of honest and constructive dialogue and challenge within and between authorities
  - demonstrate the capacity and capability of the sector to achieve a coherent and consistent self-improving system

## **2. The Project**

- 2.1 The Department for Education (DfE) Project “Phase 2” is funded by the Department for Education as part of its “Improving Sufficiency Planning to Increase Stability and Permanence for Looked after Children” Programme and aims to develop a procurement approach and pack for new and innovative provision for looked after children with a particular focus on the following key elements:
  - Flexible, creative provision designed to meet the needs of complex children, including options to ‘step across’ various forms of provision (e.g. residential to fostering)
  - Keeping children local, as close to their home address as possible
  - Working with providers who already offer both residential and fostering services and with small providers, developing joined up partnerships, enabling movement between each as appropriate to need
  - Exploring options for considering lifetime costs for placements, the potential to invest in more intensive early interventions, with a view to improving outcomes and potentially reducing longer term costs

- Including measures of progress for children placed based on assessment at the point of placement (regularly reviewed up until placement end using an evidence-based assessment tool)
  - The model will be developed collaboratively between local authorities and providers, finding innovative and creative ways to procure, drawing on relationship commissioning models. It will focus on the competitive advantage to be leveraged by working together, developing better ways to support children and young people.
- 2.2 The Project membership at this stage is three local authorities: Kent, West Sussex and Portsmouth. There are additional local authorities who are interested in joining the project as it progresses.
- 2.3 The South East Region DfE Project “phase 2” develops solutions from the successful “Strategic Needs Analysis and Recommendations for Future Commissioning Arrangements” finalised in May 2020. The project continued over the summer of 2020, with funding from SESLIP. Directors of Children’s Services (DCSs) were engaged, identifying the most pressing areas for service development and implementation. The following key themes were identified for further work:
- **Keeping children local:** the needs analysis evidenced that many children are placed at considerable distance due to placement availability rather than need (200 children - 16.5% placed over 100 miles from home). The belief is that it is generally better for children, local authorities and providers for children to be placed close to home.
  - **Preventing the use of unregistered care:** The needs analysis highlighted a small but significant group of children placed in high-cost settings that are not regulated.
  - **Sufficiency:** The analysis identified children from the South East placed in other distant regions for no obvious good reason. It suggested that there are children in residential care whose needs could possibly be better met in foster care. Future work needs to include options that promote permanency which are sustainable and good value.
  - **New placement options (e.g. hybrid local authority/independent providers, developing links between residential and foster care):** The DCSs were firmly of the view that traditional approaches cannot resolve the challenges faced and that true innovation and some element of risk sharing, both in the placement options developed and commissioning approach adopted are the only way to make real progress.
- 2.4 Residential and fostering providers were engaged in this discussion and, with the considerable support of the Independent Children’s Homes Association (ICHA), whose Chief Executive remains co-sponsor, and the National Association of Fostering Providers (NAFP), whose Chief Executive is a member of the Board, a conference was arranged in July 2020, which was attended by eight local authorities, six residential care home providers, one IFA and Ofsted. The conference was tasked with discussing the above themes and agreed that they should be further explored and used as the basis of a bid for further funding from the DfE as part of their wider “Improving

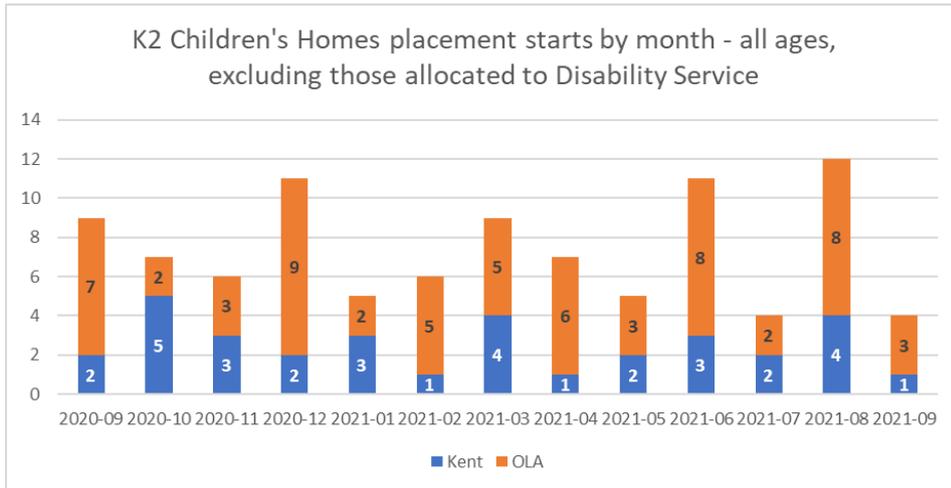
Sufficiency Planning to Increase Stability and Permanence for Looked after Children” programme.

- 2.5 The project set out to involve local authorities, provider organisations and providers (through a formal market consultation exercise), and young people, designing this new approach with a view to local authorities choosing to start delivery by Summer 2021. To achieve this the project will deliver:
- A co-produced framework (authorities, providers and young people) for the new service(s) to support procurement by local authorities (starting late 2021/early 2022)
  - Market interest in delivering services in accordance with the co-produced service framework
  - Legal framework/road map for roll out of the work (robust documentation to support authorities in implementation)
  - Financial mechanism that balances the needs of providers and authorities which evidences value for money
  - Outline business processes and forms, including data items and KPIs which can be used by local authorities and providers in developing their services
  - Compelling outline business case for use by local authorities
- 2.6 The project will deliver an innovative, co-produced model for local authorities to use to support procurement of packages of fostering and residential services to meet the needs of vulnerable children and young people who are looked after.
- 2.7 It is a “proof of concept” project which will stop at the point where a framework is complete ready for use; the project will not be involved in the actual tendering or procurement of any such service.
- 2.8 The scope of the project covers the following:
- Four local authorities (one dropped out in late Spring 2021) and two provider associations in the South East region, who will contribute to the detailed project work and the production of the framework
  - Children and young people who are looked after and who have complex needs (and possibly those on the edge of care - as defined by Phase 1 of the project)
  - The remaining 15 authorities in the South East (within the SESLIP region) who have an interest in the outcome of the project and who may use the model in the future
  - Any provider who may respond to the market consultation process
- 2.9 The scope of the project does not include:
- Children known to the local authorities but not looked after (unless on the edge of care – see above)
  - Children aged under 10 and/or those who do not have complex needs
  - Authorities outside the South East region

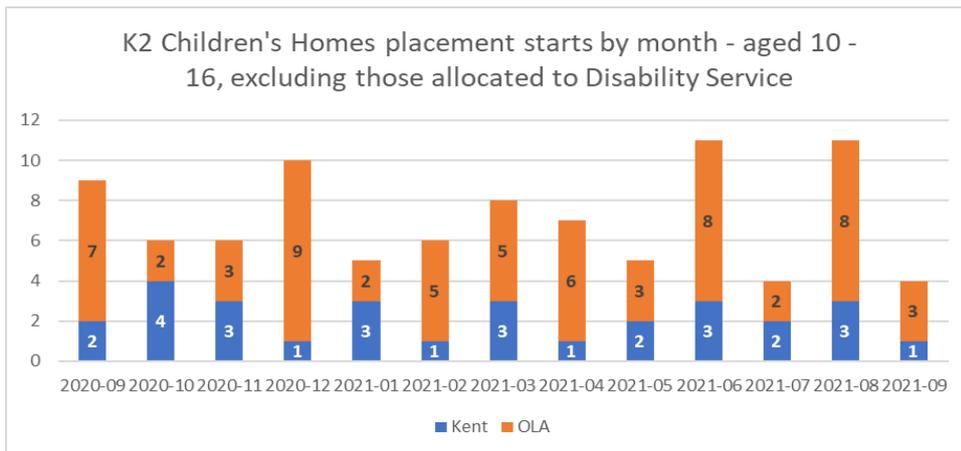
- 2.10 To date, the Project Team has:
- Engaged with young people to talk about the issues with placements and what they would want to see from a new model
  - Engaged with providers through formal market engagement to seek ideas to how our issues could be resolved
  - Engaged with the national forums for Fostering and Residential
  - Developed a procurement plan for the three local authorities to take forward

### **3. The Kent Position**

- 3.1 Kent County Council agreed with the other two local authorities in the profile of children and young people it is most difficult to place and have one or more of the following capabilities:
- Aged between 10 and 16, although needs to include some flexibility
  - 70:30 male: female
  - Have often experienced exploitation, usually criminal, sometimes sexual
  - Have long histories of neglect and exposure to domestic abuse and other forms of childhood trauma
  - Sometimes will need to be placed in an emergency
- 3.2 Kent County Council spot purchases residential care and issues an Individual Placement Agreement which details the terms and conditions of the placement along with the Placement Plan for the child.
- 3.3 Within the Kent boundary, there are of 75 residential children's homes with a total of 336 beds. Kent has 42 children placed in Kent (excluding those under the Disabled Children's Teams) as at 30 September 2021. The placements in Kent against the overall capacity shows that KCC occupies 12%. This does not allow KCC to have any leverage within the market and as a result relies on local relationships between the homes and the Total Placement Service. There are a further 33 children (excluding those under the Disabled Children's Teams) placed in residential children's homes outside of Kent.
- 3.4 The graph below shows the numbers of placements made for children (excluding those under the Disabled Children's Teams) in the last 12 months, both in and out of Kent.



3.5 The chart below shows the placements made for those aged 10-16 (excluding those under the Disabled Children’s Teams). In most cases, the data is the same as the previous slide. As the priority is to place children in a family setting, this shows that most of the placements in residential care are for those aged 10-16.



3.6 The 2020/2021 out-turn position on residential children’s home placements was £19.5m. The average weekly fees for all placements (excluding those under the Disabled Children’s Teams) can be seen in the table below. This shows accommodation only costs where placements are current at month end. Some children may have additional costs in addition to these costs for a fixed period of time. It is not possible to provide an average of the additional costs.



3.7 There has to be a significant action with this market to influence positive change. Working with the other local authorities in this project is hoped to attract providers that are willing and able to signal to other providers the expectations from local authorities for these complex adolescents that challenge placements. This project is supported by the Directors of Children's Services to be a national leader in changing the landscape and reshaping local relationships.

3.8 It is recognised that as a collective (providers and local authorities) the conversations with Ofsted could change to maintain the safety and security of children in a more risk accepting way. With the Government Reforms on 9 September 2021 outlawing the use of unregistered provision for children under 16, options for immediate safety are more limited.

3.9 The initial requirements for KCC are as follows:

|      | 12 months (or less) | 18 months (or less) | Total at 18 months | By 24 Months | Total at 24 months |
|------|---------------------|---------------------|--------------------|--------------|--------------------|
| Kent | 5                   | 5                   | 10                 | 15           | 15                 |

Location: The facility will need to be within the County Boundary of Kent County Council with good transport links. Close to a secondary school would be desirable.

#### 4. Next Steps

4.1 In finalising the documentation to run a Procurement, individually or collectively, the Project Team is seeking formal buy-in from the local authorities and in doing so requires the local authorities themselves to prepare their own governance decisions.

4.2 This report seeks to outline the project to date and gain the necessary approvals to enter into a procurement process with the ambition of awarding a contract, or contracts, to the winning organisations.

- 4.3 The Procurement will be led by West Sussex County Council and KCC Officers will actively participate in the process, including the evaluation and ongoing contract management, particularly with local provision.
- 4.4 A Partnership Agreement will be established between the three Local Authorities and any Allied Authorities wishing to join. It is intended that the relationship with the provider(s) in the local authority boundary will be held operationally with that Local Authority with block payment arrangements and vacancies managed locally. Where a vacancy arises with no referral forthcoming from the local authority, the Partnership will be advised to place one of their children, if appropriate. A reconciliation will happen at regular intervals to “charge” the other local authority for the stay in that service.

## **5. Financial Implications**

- 5.1 Residential care for children is currently costing Kent County Council on average £4,557 per week (accommodation only).
- 5.2 It is expected that by procuring a service that differs from the standard offer of residential care would benefit from the partnership across the local authorities.
- 5.3 The project team acknowledges, following the market engagement, that it could take up to 18 months for a new provision to be ready for operation under the new contract terms, although we would be seeking quicker opportunities. With the amount of registered standard children’s home provision in the Kent boundary, providers might want to re-purpose their provision in order to meet the Kent need.
- 5.4 The revenue budget for residential care is reported within the “Looked After Children – Care and Support” key service line. The 2021-22 Financial Monitoring position reported to Cabinet in September, reported a small overspend of £0.2m excluding additional costs of associated with COVID. However, over the past three years the overall budget for the placement of Looked After Children has grown by £9m (16%) whilst the number of children looked after has not changed significantly. The increase in cost has arisen from the higher dependency on more expensive placements such as residential care where the total cost in residential care has increased by £7m over the same period, demonstrating the need to explore alternative options.
- 5.5 The project is expected to be delivered within the existing resources of the Local Authority including use of expertise across the Directorate, Commissioning and Finance services. There are no extra project costs expected. The commissioning of a block contract is expected to be funded within the existing budget for residential care subject to annual inflationary increases as set out in the contract, which have traditionally been funded by additional investment made available through the Medium-Term Financial Planning process.

- 5.6 As this is a proof of concept project, delivered in conjunction with the DFE, it is difficult to fully set out the financial implications. It is unclear how the market will react to a block contract however, we are anticipating the average cost of a bed will be more economical than if purchased individually due to the certainty this arrangement will bring to providers. This will need to be offset against any risks of voids (as set out in the risk section below). Therefore, the project will aim at a very minimum to ensure the average cost of bed under this arrangement is not higher than is purchased through the current spot purchasing arrangement, with an aspiration of potential savings up to 10% if a more competitive rate can be achieved. A clearer position will be known following the procurement from all three Local Authorities.
- 5.7 Based on an expected 15 beds within 24 months and utilising the current average cost, as a maximum this would commit £3.564m per annum. If the contract was for 10 years, as SESLIP are recommending, this would be £30,564m.

## 6. Risks

- 6.1 The risks and mitigations have been detailed in the table below:

| Identified Risk  | Mitigation   |
|--|--|
| Unable to fill the placements within the Kent based homes or wider project | Including Medway as a KCC partner will allow additional children for matching purposes as an immediate response, and offering out to the other local authorities should minimise the risk. If all partners are unable to fulfil demand, there will be early termination clauses in the contract, or flexible options to adjust the block at set times. Otherwise, we would encourage other local authorities in the South East to join |
| Unable to secure a block contract with a provider at an affordable rate    | This will be closely managed through the tender. There will be clauses outlining that the local authorities reserve the right not to award contracts if the price is unaffordable.   |
| Partners not committing to the principles of the project                   | A Partnership Agreement will be in place between the local authorities, and alliance authorities, with escalation to the Directors of Children's Services  |
| The project cannot be delivered in the time required                       | The outline procurement will secure a minimum number of beds from the outset, there will need to be a mobilisation period which could take 12-18 months in a new building. Payments will commence when the   |

|                             |   |
|-----------------------------|---|
|                             | service is registered and able to accept children. This will be made clear from the outset of the procurement   |
| No response from the market | Soft market testing through the summer of 2021 identified significant appetite from providers to work more closely with local authorities in a different way. The procurement documentation will continue to be co-produced with the Independent Children's Homes Association |

## 7. Legal Implications

- 7.1 KCC is obliged to fulfil its statutory responsibilities regarding residential placements as set out in The Children Act 1989 (Section 22G), the Sufficiency Duty and other regulations and guidance. In summary local authorities are required to take steps which meets the needs of children that the local authority is looking after, and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the local authority's area ("the sufficiency duty"). KCC's own Sufficiency Strategy supports the use of residential care where appropriate, recognising that good placement matching should be paramount in searching for placements.
- 7.2 Due to the approximate value of the new arrangement the Partnership Agreement and Contracts will be reviewed via the Office of the General Counsel.

## 8. Equalities Implications

- 8.1 An Equalities Impact Assessment (EQIA) screening has been completed and no high negative impacts have been identified. The EQIA will continue to be developed and reviewed as this project progresses.

## 9. Other Corporate Implications

- 9.1 The statutory requirement for this service lies with the CYPE Directorate however, the process of sourcing placements resides within the Strategic Commissioning Division in Strategic and Corporate Services Directorate.

## 10. Governance

- 10.1 Local management of the contract will sit jointly between the CYPE Directorate and Strategic Commissioning (Children's) with ownership and accountability from CYPE. The Partnership will manage the regional contract with West Sussex County Council as the lead authority.

## 11. Data Protection implications

- 11.1 The Data Protection Impact Assessment will be completed alongside the successful provider so the data flow is clear. KCC currently shares information with Residential Children's Homes providers.

## 12. Conclusions

- 12.1 This will need to deliver a new, innovative partnership approach to break the current way of working with residential children's home providers.
- 12.2 Children's experiences will continue to be heard and the feedback received by Kent's children (link included in Background Documents below) has been shared with partnering authorities. Children value residential care and do not always feel that professionals share that view.
- 12.3 This will need ongoing assurance and commitment from Kent's Legal and Finance departments. KCC has the Finance lead in the project with Procurement led by West Sussex and Legal by Portsmouth.

## 13. Recommendation(s):

The Children, Young People and Education Cabinet Committee is asked to CONSIDER and ENDORSE, or MAKE RECOMMENDATIONS to the Cabinet Member for Integrated Children's Services on the proposed decision to:

- A) Continue engagement in the Project
- B) Participate in the Regional procurement for new innovative services for Complex Looked After Children
- C) Delegate decisions and necessary actions regarding the award of the contract and implementation of the Decision to the Corporate Director for Children, Young People and Education, or other Officer as instructed by the Corporate Director for Children, Young People and Education, in consultation with the Cabinet Member for Integrated Children's Services.

## Background Documents

Link to feedback from Children and Young People

<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fvimeo.com%2F498055987%2F38a044e4c1&data=04%7C01%7CCaroline.Smith%40kent.gov.uk%7C0cf1b9e87ba5473e1f8408d968a03328%7C3253a20dc7354bfea8b73e6ab37f5f90%7C0%7C0%7C637655859519838472%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=kc0RAIbpSqVln9vaKZBF0e%2Fs5c8vx3YCx5Xj4qzSbx0%3D&reserved=0>

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